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Applicant has, as set forth above, elected with traverse to prosecute the claims of Group I, claims 1-29, characterized as a method of treating a plethora of medical diseases.

Applicant traverses this restriction requirement and respectfully requests the Examiner reconsider the restriction requirement to achieve a proper, compact and expedited prosecution of the present invention.

Restriction can be required by the Office for certain reasons as set forth in the MPEP under section 800. Restriction is required so that an undue burden is not placed on the Office in prosecuting the application, so that the statutory fee structure is not subverted, and so that the integrity of the examination and classification system of the Office are not jeopardized. Requirement for restriction is balanced against the right of the Applicant to claim their invention as he requires to adequately protect their invention and to provide for a compact and expedited prosecution.

Applicant respectfully submits that the presently claimed invention relates to methods and pharmaceutical compositions which together comprise a single invention. Under 35 U.S.C. § 121, there are two criteria for a proper requirement for restriction between patentably distinct inventions:

- (1) the inventions must be independent or distinct as claimed; and
- (2) there must be a serious burden on the examiner if restriction is not required.

See MPEP § 803. Applicant submits that the first of these criteria is not met by the presently claimed invention which relates to the single inventive concept of pharmaceutical compositions of and to methods of using such compositions for increasing the efficacy of, or sparing, certain drugs. Because these method and composition claims represent a single inventive concept, Applicant believes they properly encompass a single patentable invention.

Second, Applicant believes that because the present claims comprise a single inventive concept, any search of the patent or scientific literature directed to such methods to uses thereof would be expected to encompass art in the field of the invention as claimed. Thus, prosecution of the invention, as a whole, would not place a burden on the Examiner sufficient to justify restriction.

Further, one instance where the Office has not always required restriction is in an art where patents have been allowed to issue with claims to similar compositions and methods for

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their use. Applicant notes that in the pharmaceutical arts, the issuance of patents directed to compositions and their use is not uncommon.

Therefore, Applicant respectfully requests that the Examiner reconsider this request for restriction in light of office practices common to the art. In particular, Applicant requests that the claims of Groups I and II be combined for prosecution on the merits.

Respectfully submitted,

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